

CHAPTER 12:

# ETHICS FOR PROBATION OFFICERS

**Juvenile Probation Officer and Caseworker  
Self-Instructional Manual**

## **Ethics**

Are the principles of conduct governing an individual or professional group. As a probation officer you will face decisions that pose significant and complex ethical issues.

You probably have much discretion in handling your caseload, including scheduling your time and structuring your activities. This is an important aspect of supervision. Most probation officers do not automatically submit violation petitions after they discover an infraction. In fact, some often give offenders second and third chances.

Probation officer discretion also plays a critical role in determining judicial decisions. As officers of the court, probation officers are expected to be, and are assumed to be, honest. In a dispute with a probationer, the probation officer's word will usually carry more weight. With such an assumption comes an obligation to ensure that your speech and actions are honest.

You may be seen as a role model. In fact, you may be the only positive role model in the probationer's life. It is critical that you are seen as being honest and ethical.

With that role in mind, the Supreme Court of the State of Michigan has developed a Model Code of Conduct for Court Employees:



## Model Code of Conduct for Michigan Court Employees

*All employees in Michigan's courts hold highly visible positions of public trust. We must conduct our business in an environment and in a manner that favorably reflects the ideals consistent with the fundamental values of the Michigan judicial system, as identified by the Michigan Supreme Court. These values include: fairness, accessibility, accountability, effectiveness, responsiveness, and independence. Our actions at all times should uphold and increase the public trust and confidence in the judicial branch, reflect the highest degree of integrity, and demonstrate commitment to each principle embodied in this model code.*



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## CANONS ONE – FIVE

CANON ONE: Impropriety or the Appearance of Impropriety	I will avoid activities that could cause an adverse reflection on my position or the court.
CANON TWO: Abuse of Position	I will not use or attempt to use my position to secure unwarranted privileges for myself or others.
CANON THREE: Impartiality	I will provide impartial treatment to all persons interacting with the court.
CANON FOUR: Proper Use of Public Resources	I will use the resources, property, and funds of the court judiciously and solely in accordance with prescribed procedures.
CANON FIVE: Duty to Disclose	I will respectfully disclose information required by the court.



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## CANONS SIX – TEN

CANON SIX: Confidentiality and Discretion	I will not disclose confidential or discretionary information gained through my court employment to any unauthorized person.
CANON SEVEN: Discrimination	I will not discriminate on the basis of race, color, religion, national origin, gender, or other protected group.
CANON EIGHT: Political Activity	I am free to participate in political activities during nonworking hours as long as such activity does not use or appear to use my position or court in connection with such activities.
CANON NINE: Duty to Serve	I will carry out my responsibilities to litigants, coworkers, and all others interacting with the court in a timely, diligent, and courteous manner
CANON TEN: Competency	I will actively pursue educational opportunities to improve my professional knowledge, skills, and abilities in order to provide quality service to the court and the public.



## **Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon One IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY**

Probation officers are highly visible and should conduct themselves in a way that instills public trust and confidence. Their actions reflect not only on themselves, but the court as well. Improper behavior or the appearance of improper behavior may compromise the integrity of the court. Activities a probation officer engages in that are improper or may be perceived as improper include:

- Violating federal, state, or local laws and regulations.
- Probation officers shall recognize that probationers have legal rights regarding new substantive offenses and apart from the issue of a probation violation.
- Entering into a contract directly or indirectly for services, supplies, equipment, or with a probationer, probationer's family, law enforcement, service provider etc.
- Outside employment that may conflict or appear to conflict with the employee's job duties. Seek approval from the appropriate authority before accepting outside employment.



## **Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon One IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY** *(continued)*

**Note:** No form of outside employment shall be performed utilizing the resources of the court and shall not require or induce the employee to disclose information acquired in the course of his or her official duties.

- Probation officers shall not conduct financial or business dealings with probationers or their families.
- Probation officers shall not receive any personal benefit from probationers ordered to perform work to pay off fines and costs or as a consequence for failure to follow rules set up by the court. For example, if a probationer is ordered to complete two hour of community service, that service may not be filled or reduced by washing the probation officer's car.



## **Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Two ABUSE OF POSITION**

The use of the real or apparent power of a position as a probation officer to personally benefit the probation officer or someone else is prohibited. Probation officers should never use their position to secure privileges, gifts, special favors, or exemptions. Generally, these would be special considerations given by others to the probation officer specifically because of his or her position as a probation officer. The solicitation or acceptance of a gift, favor, or additional compensation can give the impression that something will be done in return for the donor. This contravenes the core ideals of the judiciary.

A probation officer shall not attempt to take advantage of his or her access to judges and court files to further any personal interest, or engage in *ex parte* discussions.





## **Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Three IMPARTIALITY**

The official actions of a probation officer should not be affected or appear to be affected by kinship, rank, position, or influence of any party or person involved in the court system. Many times relationships place temptation upon the employee to provide special service or nonservice. Differential treatment in any of these situations undermines the integrity of the probation officer and the judicial system.

Probation officers should strive for bias-free behavior. They should be aware of different cultures and personal bias. A probation officer should understand and be mindful of both positive and negative bias.

Probation officers should not knowingly become socially, romantically, or sexually involved with probationers or their families. Any such involvement should be immediately reported to a supervisor.

Probation officers need to be able to provide impartial and understandable answers to the public's questions in an efficient manner, without providing legal advice. Only court employees who are attorneys licensed to practice law in the jurisdiction and who have received specific authorization of the chief judge/immediate supervisor may give legal advice.



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## **Guidelines for Juvenile Probation Officers**

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### **Canon Four PROPER USE OF PUBLIC RESOURCES**

Probation officers, like all court employees are stewards of public resources. A probation officer shall use the resources, property, and funds judiciously and solely in accordance with prescribed procedure. Pitfalls include temptations such as personal phone calls at the court's expense, personal use of government property (such as office supplies, printers, computers, vehicles, etc.). The time a probation officer is paid to work is also a public resources. Probation officers should refrain from conducting personal business on work time, including the time spent traveling to or from home visits in a county vehicle, or when being reimbursed by the county for mileage.

### **Canon Five DUTY TO DISCLOSE**

A probation officer should expect coworkers to abide by the canons set out in this code. A probation officer shall report violations of this code or attempts to compel one to violate this code.

Probation officers must inform the appropriate authority if he or she is arrested in any jurisdiction or involved in any pending legal action at the court of employment.

When required, probation officers will dutifully disclose all financial interests and dealings.



## **Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Six CONFIDENTIALITY & DISCRETION**

Although most court records are public, some are nonpublic and cannot be released. Probation officers need to understand the types of cases, and documents that are considered confidential. Confidential information should never be disclosed to any unauthorized person for any purpose.

Sensitive information acquired by probation officers in the course of performing their official duties should never be revealed until it is made a matter of public record. Even when the information becomes public, probation officers should exercise a great deal of discretion.

Probation officers shall maintain the integrity of private information and use reasonable efforts to seek only that personal information that is necessary to perform their responsibilities.



## Guidelines for Juvenile Probation Officers

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Six CONFIDENTIALITY & DISCRETION** *(continued)*

Sometimes breaches of confidentiality do not involve intentional disclosures of official court records. Some are the result of innocent and casual remarks about pending or closed cases, about probationers, or about juries, which could give attorneys, litigants, reporters, and the public confidential information. Such remarks can seriously compromise a case or a person's standing in the community. Probation officers should discuss cases only for legitimate reasons. Probation officers shall treat personal or sensitive information with the same discretion that one would wish others to have if one were involved in a similar case. Examples of confidentiality issues are not limited to cases. Personnel, probation, health records, and information accessed through the Law Enforcement Information Network (LEIN) or the Judicial Data Warehouse (JDW) have confidential limitations.

Probation officers should guard against being overheard when discussing legitimate confidential information.

Probation officers should consult the non-public and limited access chart developed by the SCAO to assist in determining if information is public. The chart is available at the following link:

[www.courts.mi.gov/scao/resources/standards/cf\\_chart.pdf](http://www.courts.mi.gov/scao/resources/standards/cf_chart.pdf)



## **Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Seven: DISCRIMINATION**

A probation officer shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin. Essential to the administration of justice is allowing equal access and treatment for all. Every day probation officers are called upon to assist people, and it is their responsibility to provide customers and coworkers with courteous service, regardless of the individual's race, religion, gender, national origin, political activities, etc. Discrimination can come in varying forms (words and actions), yet probation officers should be aware that no form of discrimination is acceptable and when discovered should be exposed and discouraged. Preferential treatment to a certain class is also discrimination.



## Guidelines for Juvenile Probation Officers

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Eight: POLITICAL ACTIVITY**

A probation officer's ability to participate in the democratic process by working for a political cause, party, or candidate should not be hampered by his or her employment if done outside of working hours. This participation includes, but is not limited to, holding party membership, holding public office<sup>1</sup>, making speeches, and making contributions of time and/or money to candidates, political parties or other groups engaged in political activity. This participation in political activity should not transcend into the workplace by the displaying of political material (i.e., literature, badges, signs or other material advertising a political cause, party, or candidate), soliciting signatures for political candidacy, or soliciting or receiving funds for political purposes. In addition, no government equipment or resources of any kind are to be used for promoting political activity in the workplace before, during, or after work hours. Holding public office is acceptable unless a conflict of interest exists with employment at the court, or it is prohibited by law. An example of a conflict includes serving on the county board of commissioners whose oversight of budget and other policy issues impact the court.

<sup>1</sup> Holding public office is acceptable unless a conflict of interest exists with employment at the court, or it is prohibited by law. An example of a conflict includes serving on the county board of commissioners whose oversight of budget and other policy issues impact the court.



## **Guidelines for Juvenile Probation Officers**

The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Nine: DUTY TO SERVE**

For the court to be an effective institution, probation officers must reflect a high level of professionalism as they faithfully carry out all assigned duties and enforce the rules and orders provided by the court. Probation officers shall maintain relationships with colleagues in such a manner as to promote mutual respect and improve the quality of services provided.

Probation officers shall respect the authority and follow the directives of the court, recognizing that they are an extension of the court. Probation officers shall not engage in second guessing the court or in impugning the decisions and directives of the court. This should not be construed to limit a probation officer from maintaining his/her independence in making recommendations to the court, but reflect that once the court has made a decision the probation officer shall follow the decisions of the court.

Probation officers should respect the importance of all the elements of the criminal justice system and cultivate a professional cooperation with each segment. For juvenile probation officers, this includes, but is not limited to, law enforcement, the Department of Human Services, Community Mental Health, schools, etc.

Probation officers are not to inappropriately destroy, alter, falsify, mutilate, backdate, or fail to make required entries on any court records.



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The following guidelines clarify the canons in the Model Code of Conduct for Juvenile Probation Officers:

### **Canon Ten: COMPETENCY**

When working within the court system, laws and rules of operation are continually changing due to legislation, court rules, administrative orders, case law, technology, etc. Therefore, probation officers are encouraged to take advantage of educational opportunities that will enhance their skills, advance their understanding, and allow for better service. This includes understanding the community you serve in, being culturally competent, networking with other professionals.





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**SOME ETHICAL DILEMMAS YOU MAY ENCOUNTER**

**Residential Placement in Out-Of-State Facility**

Based upon your recommendation, the court placed a juvenile in a residential treatment facility in Arizona. Once every three months you fly to the facility and stay for a couple of days. You stay in a luxury hotel. While there, the facility tells you to explore the campus and use any of the services they offer, including golf, horseback riding, and boating - all at no charge. In the evening, one of the facility managers takes you to a nice restaurant for dinner, picks up the tab, and then takes you and a group of juveniles to a professional sporting event.

What are the ethical considerations? Is it okay to fly to the facility, stay in a luxury hotel, use the services of the facility, to go to dinner, to the professional sporting event?



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#### **Best Practice** | *Residential Placement in Out-Of-State Facility*

There is no prohibition against placing a juvenile in out-of-state residential treatment. In fact, sometimes the only, or best, facility offering a specific intervention is located in another state. When considering out-of-state placement for any juvenile, you should first look at the needs of the juvenile and whether there are any local facilities (either in your county or in-state) that provide the services the juvenile needs, at a reasonable cost, with date-certain availability. Only when those efforts are exhausted should you seek out-of-state placement, and you must be able to document the youth's needs and validate the reasonableness of the costs. Once the court makes the decision to place a youth in an out-of-state facility, it is not only suggested, but recommended, that you make periodic visits to the facility to allow first-hand observation of contracted services, to maintain contact with the youth and keep the youth connected, in some way, to your community. It is not uncommon for the cost of the site visits to be included as part of the residential treatment package to ensure that the probation officer is able to conduct these periodic visits. However, you must be aware of the impression that taking one of these trips might give to the casual observer (especially a member of the general public who is not familiar with the reasons for the probation officer taking these trips) and pay attention to whether the activities you engage in while on a site visit could be considered extraordinary; such as a gift, or be perceived as trying to influence you so that you more likely to recommend additional placements. While there is nothing inherently or implicitly wrong with taking advantage of amenities the facility might offer (for instance, would it make a difference if you were taking advantage of a basketball court and weight room, as opposed to a golf game and horseback riding?) But, what may make a difference is how it is perceived by others. A question you should ask yourself is: "How would a picture of me \_\_\_\_\_ (golfing, horseback riding, attending a professional sports game) appear on the front page of my local newspaper?" Would you be able to justify the activities to your court administrator and judge(s)? And would they be able to justify them to your funding unit? Or the public?



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**Job Competency**

While observing a fellow probation officer explain court procedures and due process rights guaranteed to all juveniles, you notice several errors and omissions. Afterward, you advise your colleague of your observations, to which he replies: “I didn’t know that, and it doesn’t really matter anyway.” You know it matters to the judge, to you and other probation officers, and especially to the juveniles that come into your court.

What do you do? Do you bring this to anyone else’s attention? Should you have interrupted your coworker during their explanation?

Cannons: 1, 5, 9, 10



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#### **Discussion** | *Job Competency*

It is important for you to bring these issues to the attention of your co-worker and supervisor. Your colleague may, perhaps unwittingly, be violating probationer's due process right, contrary to longstanding U.S. Supreme Court decisions.

Michigan Supreme Court Administrative Order 1985-5, as amended, requires a juvenile probation officer or caseworker to meet certain educational, experiential, and training thresholds to achieve certification. This includes knowledge of the juvenile justice system and the ability to be effective. In addition to a policy and procedures manual, there are a number of ways to keep abreast of trends and issues in juvenile justice including subscribing to various free internet-based publications, attending training and seminars, as well as, various on-line tutorials. The most up-to-date statutes may be found on the Michigan Legislature website:

[http://www.legislature.mi.gov/\(S\(ckr5xt4543lv1k55svaf1pz2\)\)/mileg.aspx?page=home](http://www.legislature.mi.gov/(S(ckr5xt4543lv1k55svaf1pz2))/mileg.aspx?page=home) and current (as well as proposed amendments to) court rules and court of appeals and supreme court cases, may be found on the Michigan Supreme Court website (see link below). At a minimum, probation/casework staff should be given administrative time, during regular work hours, to participate in training, and should include the ability (via internet access, streaming video, and sound cards) to access on-line tutorials. You should also encourage administration to provide opportunities for outside training (which also allows you to interact with professional colleagues) and regular and routine in-service trainings. Link to: <http://www.courts.michigan.gov> to start your search.



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## **Judicial Elections**

Your judge is up for re-election, and while she is expected to win, this is the first contested judicial election in your court for some time. You like and respect your judge and think she should be re-elected. One day, she approaches you and asks you to work on her campaign, and to start that day. In fact, she has a campaign flyer she wants to get distributed at a social function this evening, and asks you to take some time this afternoon and make the flyer look nicer by adding some graphics, and then making 100 copies to distribute. She knows you don't have time to go home and do this, or to make it to the local copy shop.

How do you respond? Would it make any difference if you could go home and do this? Would it matter if you didn't think the judge should be re-elected?

Cannons: 1, 2, 3, 4, 8



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#### **Discussion** | *Judicial Elections*

You are welcome to work on your judge's re-election campaign, as long as you do it on your own time and with your own resources, or resources provided somewhere other than by the court. It is not ethical for your judge to ask you to do this during work time (See the Code of Judicial Conduct, Canon 7), and it could be construed as illegal (See MCL 15.404 and 405.) Of course, it is not as easy to do as it is to say. Your judge is your boss and it may be difficult to say "no". If you want to work on her campaign, you may let her know of your willingness to do so, outside court hours and with outside resources. It is likely that she did not even think about the potential inappropriate use of court resources when she asked you to perform the task. The MJI has a web-based training titled "Making Ethical Decisions" designed for the nonjudge. One module addresses judicial campaigns. MJI also has a web-based training designed for judges titled "Judicial Campaign Ethics", as well as a judicial elections webcast held in December, 2009. The web-based trainings and webcasts are archived at <http://www.courts.michigan.gov> website.

The scenarios above are just examples of how ethics impact your daily decision making. When questioning whether or not a certain course of action is ethical, and until such time as you are completely comfortable with the ethics, you should keep the canons and guidelines close to you for easy access.

